

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA**

Melissa Duffield,	)	
	)	
Plaintiff,	)	<b>PROTECTIVE ORDER</b>
	)	
vs.	)	
	)	
University of Mary,	)	Case No. 1:16-cv-095
	)	
Defendant.	)	

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Before the court is a “Stipulation for Protective Order Regarding Non-Party Student Education Records and Information” filed by the parties on March 14, 2017. The court **ADOPTS** the parties’ stipulation (Docket No. 25) and **ORDERS**:

Confidential student records, and the information contained therein, may be given, shown, disclosed, made available, or communicated only to:

- (a) Attorneys for the parties who have executed this Protective Order or are working with such attorneys in their respective firms on this matter, and the paralegal, administrative, clerical and secretarial personnel assisting such attorneys for whom access to such material is necessary to perform their duties with respect to this case, provided that execution of this Protective Order by any member of a law firm representing a party shall constitute a representation that all persons in or employed by that firm shall observe this Protective Order;
- (b) The parties, to whom the confidentiality provisions of this Protective Order also apply. The parties may testify, consistent with the rules of evidence, concerning the documents and information disclosed in the documents, and concerning events and

circumstances concerning and surrounding those student-athletes and their records, as long as such testimony is reasonably related to the subject matter involved in this lawsuit;

- (c) Deposition witnesses and court reporters in the course of such depositions, provided that as to the court reporters and the witnesses — if the witness is not a party to this litigation — such disclosure can only be made after execution of the attached Acknowledgment and according to the terms of this Protective Order.
- (d) Experts and consultants qualified for access as follows: Before allowing an expert or consultant to gain access to the confidential student records or information contained the disclosing counsel shall first require the expert or consultant to execute the Acknowledgment form attached hereto and provide him or her with a copy of this Protective Order. In the event the expert is to be utilized as an expert at trial or deposition, a copy of the signed undertaking shall be provided to opposing counsel, and otherwise any such executed form shall be provided to opposing counsel upon request.
- (e) The Court, in accordance with the terms of this Protective Order, and if the Court finds any such document or the information contained therein admissible at trial and so orders, the jury.

All of these student records shall be maintained securely at the offices of the attorney for the respective parties, in such a way as to allow access to those records only to those persons set forth above.

If a party intends to disclose a confidential student record or the information

contained therein or reasonably related thereto in any public filing in any way that would reveal the individual's name, address, e-mail address, telephone number or other personally identifiable information concerning that individual, the party must seek permission from the Court.

In the event there is any inadvertent or unintended disclosure pursuant to discovery in this lawsuit of confidential student records or information contained therein or related thereto, it shall not be deemed a waiver in whole or in part of a subsequent claim of protected treatment under this Protective Order, either as to the specific information and/or documents disclosed or as to any other information and/or documents. Notice of the inadvertent disclosure shall be made to the opposing counsel in a timely fashion upon learning of the disclosure.

Upon termination of this litigation, the originals and all copies of confidential student records, as well as any other materials containing such information, shall be turned over without demand to the party or non-party who produced such material, through its counsel, including any copies provided to any third parties.

Nothing in this Protective Order or the fact that a party has consented to entry of the Protective Order constitutes an agreement to provide any confidential student record or information, or constitutes a determination as to the propriety or enforceability of any subpoena or discovery requests, constitutes a waiver of any objection to any subpoena or discovery request, or constitutes a determination as to the discoverability or admissibility of any document or information.

Dated this 15th day of March, 2017.

/s/ Charles S. Miller, Jr.  
Charles S. Miller, Jr., Magistrate Judge  
United States District Court

**ACKNOWLEDGMENT OF READING AND  
AGREEMENT TO BE BOUND BY PROTECTIVE ORDER**

1. My full name is: \_\_\_\_\_
2. My address is: \_\_\_\_\_  
\_\_\_\_\_
3. My present employer is: \_\_\_\_\_  
\_\_\_\_\_
4. My present occupation or job description is: \_\_\_\_\_  
\_\_\_\_\_

5. I have received a copy of the FERPA Protective Order in this action, *Melissa Duffield v. University of Mary*, U.S. District Court, District of North Dakota, Western Division, Case No. 1:16-cv-00095. I have carefully read and understand the provisions of the Protective Order. I will comply with all of the provisions of the Protective Order.

6. I will hold in confidence, will not disclose to anyone not qualified under the Protective Order, and will use only for purposes of this action, any confidential materials disclosed to me.

7. I will return all confidential materials and all copies or documents containing any confidential materials which come into my possession, and documents or things which I have prepared relating thereto, to counsel for the party by whom I am employed or retained.

8. I hereby submit to the jurisdiction of this Court for the purpose of enforcement of the Protective Order in this action.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Signature